

## EXHIBIT 8

1 THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 - - -

4 IN RE: NATIONAL :  
PRESCRIPTION OPIATE : MDL NO. 2804  
5 LITIGATION :

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6 : CASE NO.  
THIS DOCUMENT : 1:17-MD-2804  
7 RELATES TO ALL CASES: Hon. Dan A. Polster

8 - - -

9 Wednesday, November 28, 2018

10 - - -

11 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
12 CONFIDENTIALITY REVIEW

13 - - -

14 Videotaped deposition of JOSEPH  
15 TOMKIEWICZ, taken pursuant to notice, was held  
16 at Golkow Litigation Services, One Liberty  
17 Place, 1650 Market Street, Suite 5150,  
18 Philadelphia, Pennsylvania 19103, beginning at  
19 9:58 a.m., on the above date, before Lisa V.  
20 Feissner, RDR, CRR, Notary Public.

21

22 - - -

23 GOLKOW LITIGATION SERVICES  
877.370.3377 ph | 917.591.5672 fax  
24 deps@golkow.com

1 ask you, it's also affected your family; is  
2 that fair to say?

3 A. My family:

4 MR. HAMMOUD: Object to the form.

5 THE WITNESS: I don't know anyone  
6 in my family who is a -- has an issue  
7 with opioids.

8 BY MR. CARTMELL:

9 Q. But you have good friends?

10 A. Oh, yeah, my -- like I said, my  
11 wife's best friend growing up.

12 Q. Okay. Would you agree with me that  
13 the abuse and addiction of both prescription  
14 and nonprescription opioids is a serious  
15 problem?

16 A. Well, of course.

17 Q. And it affects the health, social,  
18 and economic welfare of all individuals,  
19 communities, and companies?

20 MR. HAMMOUD: Object to the form.

21 THE WITNESS: I would say that's a  
22 fair assessment.

23 BY MR. CARTMELL:

24 Q. And you mentioned that opioid

1 deaths continue to rise; is that right?

2 A. That is correct.

3 Q. And in part that's because opioids  
4 continue to be diverted and abused, correct?

5 MR. HAMMOUD: Object to the form.

6 THE WITNESS: The rates that I've  
7 seen involving prescription opioids have  
8 appeared to be relatively flat over the  
9 last several years.

10 BY MR. CARTMELL:

11 Q. Staying at the same level, is that  
12 what you mean?

13 A. Correct, correct.

14 Q. In other words, you're not saying  
15 that it's going down --

16 A. Correct.

17 Q. -- you're just saying that it's  
18 been flat?

19 A. Correct. And I'm not saying it's  
20 not an issue either.

21 Q. You're saying it's a serious issue,  
22 aren't you?

23 A. Oh, it's a very serious issue, yes.

24 Q. Would you agree, and I think you

1     said this, that the opioid epidemic is  
2     worsening?

3                   MR. HAMMOUD:   Object to the form,  
4                   mischaracterizes prior testimony.

5                   THE WITNESS:   Yeah, it -- in terms  
6                   of what I see with heroin and illicit  
7                   fentanyl -- and that's fentanyl that's  
8                   not produced for medical purposes -- I  
9                   see pretty dramatic increases in those  
10                  products.

11    BY MR. CARTMELL:

12                  Q.     And would you agree with me that  
13                  the opioid epidemic must be addressed in part  
14                  through the manufacturers --

15                  MR. HAMMOUD:   Objection.

16    BY MR. CARTMELL:

17                  Q.     -- of the opioids?

18                  A.     Well, I think my program has been  
19                  part of helping to solve the problem.

20                  Q.     Right.   In other words, you would  
21                  agree with me that in order to solve this  
22                  problem, the manufacturers -- and I'm not  
23                  eliminating any others -- but are a part of  
24                  that solution and have responsibility to do

1     their duty to try to limit the amount of  
2     diverted opioids. Would you agree with that?

3                   MR. HAMMOUD: Object to the form.

4                   THE WITNESS: Oh, from -- yeah, we  
5             have a different responsibility to help  
6             prevent diversion.

7     BY MR. CARTMELL:

8             Q.     Okay. Let's talk about  
9             specifically what the law says that duty and  
10            responsibility is for manufacturers of opioids.  
11            I talked about this a little bit, but let me  
12            start from the beginning, if I can, because I  
13            want to make this very clear to the jurors, and  
14            understandable.

15                   Is it true that the sale of opioid  
16            narcotic drugs is regulated by the law in  
17            America?

18                   A.     That's fair.

19                   MR. HAMMOUD: Object to the form.

20     BY MR. CARTMELL:

21             Q.     And for opioid narcotic drugs like  
22             the ones that Teva sells and distributes, those  
23             are called controlled substances; is that  
24             right?

1 MR. HAMMOUD: Object to the form.

2 THE WITNESS: That is correct.

3 BY MR. CARTMELL:

4 Q. Okay. And what does it mean for a  
5 drug or a pharmaceutical like the opioids  
6 produced by Teva and sold by Teva, what does it  
7 mean to be a controlled substance?

8 A. From my understanding, it is that  
9 it's a -- that the manufacture, sale,  
10 distribution of the products are controlled  
11 federally by the federal government and that --  
12 and as part of what's called the closed  
13 distribution system.

14 Q. Okay. And I think you mentioned  
15 this, but Congress actually passed what's  
16 called the Controlled Substances Act that  
17 governs and regulates the sale of opioid  
18 narcotics and controlled substances?

19 MR. HAMMOUD: Object to the form.

20 THE WITNESS: Correct.

21 BY MR. CARTMELL:

22 Q. Okay. And I think you mentioned  
23 this, too, but the Controlled Substances Act  
24 went into effect in 1970; is that right?

1           A.     That's correct.

2           Q.     Okay. I want to actually hand you  
3     Exhibit 4 in this case and ask you a few  
4     questions about this document.

5                     (Exhibit Teva-Tomkiewicz-004 marked  
6             for identification and attached to the  
7             transcript.)

8     BY MR. CARTMELL:

9           Q.     This was a document that was  
10    produced in this litigation by Teva from their  
11    internal files, and I just have a few questions  
12    about this letter for you.

13                     This is a letter dated --

14                     MR. HAMMOUD: Can you give him a  
15             second to read the document.

16    BY MR. CARTMELL:

17           Q.     Mr. Tomkiewicz, have you seen this  
18    letter before?

19           A.     Yes, I have.

20           Q.     In other words, you're familiar  
21    with this letter based on your experience in  
22    the industry related to diversion control of  
23    opioid narcotics?

24           A.     Yes, I've seen it and have a copy



1 of it.

2 Q. Okay. Now, I think actually we  
3 found this letter in your file. But as you see  
4 here, this is from the U.S. Department of  
5 Justice Drug Enforcement Administration.

6 Do you see that?

7 A. Yes.

8 Q. And we talked -- you kept calling  
9 it the administration; I kept calling it the  
10 agency. I apologize.

11 A. Administration, yeah.

12 Q. But this is the entity that is --

13 A. I've been wrong before.

14 Q. Don't worry. I am all the time.  
15 But this is the entity that is charged with the  
16 duty to enforce the act, the Controlled  
17 Substances Act, correct?

18 A. My understanding, yes.

19 Q. Okay. And I want to go through a  
20 few things here. The date of this is actually  
21 February 7th of 2007.

22 Do you see that?

23 A. Yes.

24 Q. So that's actually over ten years

1       ago, correct?

2                   A.     Correct.

3                   Q.     And this is a letter from, if you  
4       look at the last page, somebody named Joseph  
5       Rannazzisi.

6                             Do you see that?

7                   A.     Yes.

8                   Q.     Okay. And that's a name that  
9       you're familiar with, right?

10                  A.     Yes.

11                  Q.     And is it true that this letter and  
12       maybe some of the additional letters from  
13       Mr. Rannazzisi have become well-known to  
14       manufacturers and distributors of opioid  
15       narcotics? Is that fair?

16                             MR. HAMMOUD: Object to the form.

17                             THE WITNESS: I would say that that  
18       is fair, yeah.

19       BY MR. CARTMELL:

20                  Q.     Okay. Now, you weren't working at  
21       Teva at this time, but let me go through this  
22       and ask you some questions about it. But first  
23       it states, Dear sir or madam, this letter is  
24       being sent to every commercial entity in the

1 United States registered with the Drug  
2 Enforcement Administration to distribute  
3 controlled substances.

4 Now, let me ask you, is it true  
5 that a pharmaceutical company like Teva or a  
6 distributor like AmerisourceBergen, they have  
7 to register with the DEA in order to be allowed  
8 to sell or distribute opioid narcotics?

9 MR. HAMMOUD: Object to the form.

10 THE WITNESS: Or manufacture.

11 BY MR. CARTMELL:

12 Q. Or manufacture?

13 A. Correct.

14 Q. Okay. It states, The purpose of  
15 this letter is to reiterate the responsibility  
16 of controlled substance distributors in view of  
17 the prescription drug abuse problem our nation  
18 currently faces.

19 Do you see that?

20 A. Yes.

21 Q. And we've already talked about  
22 that, but clearly back in 2007, at that point  
23 already our nation was faced with an opioid  
24 addiction and abuse problem, correct?

1 MR. HAMMOUD: Object to the form,  
2 lacks foundation.

3 THE WITNESS: Well, I'd say that's  
4 a fair assessment.

5 BY MR. CARTMELL:

6 Q. Okay. And then it states, As each  
7 of you is undoubtedly aware, the abuse or  
8 nonmedical use of controlled prescription drugs  
9 is a serious and growing health problem in this  
10 country.

11 And we've talked about that, and  
12 you agree with that, correct?

13 A. Oh, yes.

14 Q. The next paragraph states, The  
15 CSA -- and that would be the Controlled  
16 Substances Act, right?

17 A. My understanding, yes.

18 Q. -- was designed by Congress to  
19 combat diversion by providing for a closed  
20 system of drug distribution in which all  
21 legitimate handlers of controlled substances  
22 must obtain a DEA registration, and as a  
23 condition of maintaining such registration,  
24 must take reasonable steps to ensure that their

1 registration is not being utilized as a source  
2 of diversion.

3 Do you see that?

4 A. Yes.

5 Q. Distributors are, of course, one of  
6 the key components of the distribution chain.  
7 If the closed system is to function properly as  
8 Congress envisioned, distributors must be  
9 vigilant in deciding whether a prospective  
10 customer can be trusted to deliver controlled  
11 substances only for lawful purposes. This  
12 responsibility is critical as Congress has  
13 expressly declared that the illegal  
14 distribution of controlled substances has a  
15 substantial and detrimental effect on the  
16 health and welfare of the American people.

17 Do you see that?

18 A. Yes.

19 Q. And what this is talking about is  
20 that distributors of these drugs and  
21 manufacturers of these drugs that are selling  
22 these opioid narcotic drugs have a  
23 responsibility to try to do everything they can  
24 to prevent the diversion of the drugs they are

1 manufacturing, selling, and distributing,  
2 correct?

3 MR. HAMMOUD: Object to the form.

4 THE WITNESS: Well, I think, you  
5 know, doing everything we can, I think  
6 that's a fair assessment.

7 BY MR. CARTMELL:

8 Q. Okay. And then if you go to the  
9 next page, I want to talk to you about the  
10 second paragraph. Here's where it talks  
11 specifically about manufacturers like Teva.

12 In the second sentence it says,  
13 Moreover, all registrants -- manufacturers,  
14 distributors, pharmacies, and practitioners --  
15 share responsibility for maintaining  
16 appropriate safeguards against diversion.  
17 Nonetheless, given the extent of prescription  
18 drug abuse in the United States, along with the  
19 dangerous and potentially lethal consequences  
20 of such abuse, even just one distributor that  
21 uses its DEA registration to facilitate  
22 diversion can cause enormous harm.

23 Do you agree with that?

24 A. Yes.

1 Q. Okay.

2 Accordingly, the DEA will use its  
3 authority to revoke or suspend registrations in  
4 appropriate cases.

5 Do you see that?

6 A. Yes.

7 Q. And that's a fact, right, that DEA,  
8 as the enforcer of the law, the Controlled  
9 Substances Act, if they find that a  
10 manufacturer of opioids or a seller or  
11 distributor of opioids is allowing diversion or  
12 ignoring diversion, or not taking on their duty  
13 to try to prevent diversion and abuse of these  
14 drugs, the DEA can take away the registration  
15 from that company. Is that fair?

16 A. They have --

17 MR. HAMMOUD: Object to the form.

18 THE WITNESS: I believe they have  
19 that ability, yes.

20 BY MR. CARTMELL:

21 Q. And taking away a company's reg --  
22 DEA registration is a really big deal. Would  
23 you agree with that?

24 A. Oh, I would agree with that, yes.

1           Q.     Because if the registration for the  
2     company, a company like Teva, is taken away by  
3     the DEA, then that company no longer has the  
4     ability to sell or distribute these opioid  
5     narcotic drugs. Is that fair?

6           A.     Or manufacture.

7           Q.     Or manufacture them, right?

8           A.     Correct.

9           Q.     The next paragraph, if you look at  
10    the second sentence, states, Listed first among  
11    these factors is the duty of distributors to  
12    maintain effective controls against diversion  
13    of controlled substances into other than  
14    legitimate medical, scientific, and industrial  
15    channels.

16                   Do you see that?

17          A.     Yes.

18          Q.     And does that mean there is a duty  
19    by distributors and manufacturers of these  
20    opioids, and sellers of these opioid narcotic  
21    drugs, that they have to have controls in place  
22    in their organization to help prevent the  
23    diversion and abuse of these drugs? Is that  
24    what that means?



1 MR. HAMMOUD: Object to the form.

2 MR. NICHOLAS: Object to form.

3 THE WITNESS: And I would say  
4 that's a fair assessment.

5 BY MR. CARTMELL:

6 Q. Okay. If you go down to the next  
7 paragraph, it states, The DEA regulations  
8 require all distributors to report suspicious  
9 orders of controlled substances.

10 Do you see that?

11 A. Yes.

12 Q. Now, you talked about you were  
13 actually hired by Teva to be the manager of the  
14 suspicious order monitoring; is that right?

15 A. Of the suspicious order monitoring  
16 program, yes.

17 Q. And when we talk about suspicious  
18 orders related to opioids, what are we talking  
19 about?

20 A. We're talking about orders that may  
21 be of an unusual size, pattern, or frequency.

22 Q. Okay. And I think it says this  
23 here. Let's talk about it.

24 The registration -- or excuse me.

1 The registrant shall design and operate a  
2 system to disclose to the registrant suspicious  
3 orders of controlled substances.

4 Would you agree with me that it's  
5 the duty of Teva and all manufacturers and  
6 sellers and distributors of these opioids to  
7 design a system so that they can, to the best  
8 of their ability, have suspicious orders  
9 identified?

10 MR. HAMMOUD: Object to the form.

11 THE WITNESS: I would say that's a  
12 fair assessment, yes.

13 BY MR. CARTMELL:

14 Q. It then states that the registrant  
15 shall inform the field division office of the  
16 administration in his area of suspicious orders  
17 when discovered by the registrant.

18 Do you see that?

19 A. Yes.

20 Q. And "the registrant" is talking  
21 about -- in your case Teva would be the  
22 registrant because they have a DEA  
23 registration, right?

24 A. Correct.

1           Q.     So Teva, according to the law  
2     that's been in place since the 1970s, has had,  
3     one, the duty to design a system that's  
4     effective in helping them to identify the  
5     diversion of opioids, correct?

6                     MR. HAMMOUD:   Object to the form.

7                     THE WITNESS:   Controlled  
8     substances, yes.

9     BY MR. CARTMELL:

10           Q.     Including opioids, right?

11           A.     Correct.

12           Q.     And also they've got to operate a  
13     system that's effective in disclosing  
14     suspicious orders that come to them for these  
15     opioids, correct?

16           A.     Correct.

17           Q.     Okay.  And that's been going on --  
18     that's been the duty of companies like Teva and  
19     distributors of opioids, that duty has existed  
20     since the 1970s, correct?

21                     MR. HAMMOUD:   Object to the form.

22                     THE WITNESS:   I'm not certain when  
23     the reg came into effect, but I'll take  
24     your word as an attorney.

1 BY MR. CARTMELL:

2 Q. Well, you know that that -- and I  
3 don't mean to put words in your mouth, but I  
4 take it from your experience, you know that  
5 this duty that we've been talking about, to  
6 have a suspicious order monitoring system, one  
7 that is effective, that duty has been in effect  
8 since before the 1990s. Fair enough?

9 A. Oh, that's fair.

10 Q. If you go a couple paragraphs down,  
11 it says, Thus, in addition to reporting all  
12 suspicious orders, a distributor has a  
13 statutory responsibility to exercise due  
14 diligence to avoid filling suspicious orders  
15 that might be diverted into  
16 other-than-legitimate medical, scientific, and  
17 industrial channels.

18 Do you see that?

19 A. Yes.

20 Q. And that's the law, right?

21 MR. HAMMOUD: Object to the form,  
22 calls for a legal conclusion.

23 THE WITNESS: And that's my  
24 understanding.

1 BY MR. CARTMELL:

2 Q. I should say that's your  
3 understanding of the law as a suspicious order  
4 monitoring manager at Teva. Is that fair?

5 A. That is a fair assessment, yes.

6 Q. In other words, your understanding  
7 as the manager at Teva since 2014 has been that  
8 if your company determines that there are  
9 suspicious orders for opioid narcotic drugs  
10 that has come to your company, you have the  
11 duty to report that to the DEA, correct?

12 MR. HAMMOUD: Object to the form.

13 THE WITNESS: That is correct.

14 BY MR. CARTMELL:

15 Q. And is it true that you also have  
16 the duty -- when your company determines that  
17 one of your customers has a suspicious order,  
18 you have the duty to, in fact, stop that order  
19 from being shipped so that it won't likely be  
20 diverted out in the community?

21 MR. HAMMOUD: Object to the form,  
22 calls for a legal conclusion.

23 THE WITNESS: Yeah, I haven't heard  
24 that there's a regulatory requirement to

1           stop it, but I will say that I don't  
2           ship anything that we have determined to  
3           be suspicious.

4   BY MR. CARTMELL:

5           Q.    In other words, would you agree  
6           with me that the most prudent practice and the  
7           most responsible practice would be that if a  
8           company like Teva and its manager like you  
9           determines that orders are suspicious for these  
10          opioids that are narcotics and that you know  
11          can be diverted and abused so readily, the best  
12          practice and the most responsible practice  
13          would be not to ship those orders? Do you  
14          agree with that?

15                   MR. HAMMOUD: Object to the form.

16                   THE WITNESS: I would agree to  
17                  that.

18   BY MR. CARTMELL:

19           Q.    Okay. It then states, In a similar  
20           vein, given the requirement under Section  
21           823(e) that a distributor maintain effective  
22           controls against diversion, a distributor may  
23           not simply rely on the fact that the person  
24           placing the suspicious order is a DEA

1 registrant and turn a blind eye to the  
2 suspicious circumstances.

3 Do you see that?

4 A. Yes.

5 Q. In other words, that means that a  
6 company like Teva, if you have an order for  
7 opioids that you think may be suspicious and  
8 could likely be diverted or abused out in the  
9 communities, you can't turn a blind eye and  
10 just say, well, I'll go ahead and ship it  
11 because the person who made the order is  
12 registered with the DEA. You can't do that,  
13 right?

14 MR. HAMMOUD: Object to the form.

15 THE WITNESS: And I would say that  
16 yes, that is correct.

17 BY MR. CARTMELL:

18 Q. And just on the -- I don't want to  
19 go through them, but if you turn the page,  
20 Mr. Tomkiewicz, you'll see that there are  
21 actually some hints by the DEA here that were  
22 given to distributors and manufacturers of  
23 these opioids as far as some things that might  
24 be a clue that an order might be suspicious or

1       may be ultimately diverted.

2                   Do you see that?

3           A.     Yes.

4           Q.     You can see that they give  
5       circumstances that might be indicative of  
6       diversion, right?

7           A.     Correct.

8           Q.     And you're very familiar with those  
9       circumstances, I take it?

10          A.     Yes, I'm familiar with them.

11          Q.     And you take those circumstances or  
12       these hints that are given by the DEA into  
13       consideration as the manager that is monitoring  
14       suspicious orders. Is that fair to say?

15          A.     These specifically, when I'm  
16       reviewing -- when we're reviewing things that  
17       might be suspicious, I wouldn't say we refer  
18       back to this document, but they're often  
19       included in, you know, how we review.

20          Q.     Okay. In other words, you're  
21       saying, I don't get the document out, but these  
22       are some of the things we look for when we're  
23       looking for a suspicious order of opioid  
24       narcotic drugs, right?



1           A.     Or any controlled substance, yes.

2           Q.     Okay. Now, if you go back to the  
3 first page, this letter, which is often  
4 referred to as the Rannazzisi letter, was --  
5 well, let me ask you if you agree with me.

6                     This letter that was sent from the  
7 Drug Enforcement Administration to all of the  
8 manufacturers and sellers and distributors of  
9 opioids, including the high-risk opioids that  
10 are narcotics and easily diverted, this was  
11 sort of a reminder to these manufacturers,  
12 sellers, and distributors of the  
13 responsibilities and duties they had to help  
14 prevent diversions of opioids. Would you agree  
15 with that?

16                   MR. HAMMOUD: Object to the form.

17                   THE WITNESS: And I would not agree  
18 with the assessment in your question  
19 that certain high-risk, at least as I  
20 define them, are easily diverted. I --

21 BY MR. CARTMELL:

22           Q.     Okay, well, let me restate --

23           A.     -- I would --

24           Q.     Fair enough.

1           A.     Yeah, I would reject that.

2           Q.     Fair enough. Let me restate the  
3 question.

4                     Would you agree with me that this  
5 letter that's often referred to as the  
6 Rannazzisi letter was the Drug Enforcement  
7 Agency sending a letter to manufacturers,  
8 distributors, sellers of opioid narcotic drugs  
9 as sort of a reminder and reiterating the  
10 duties and responsibilities that they had to  
11 try to prevent the diversion of opioid narcotic  
12 drugs? Fair enough?

13                   MR. HAMMOUD: Object to the form.

14                   THE WITNESS: And I would say  
15 that's a fair assessment.

16 BY MR. CARTMELL:

17           Q.     Okay. Do you know, as you sit here  
18 today, when it was that Teva first started  
19 selling or distributing opioids?

20           A.     No, I don't.

21           Q.     Do you have any clue?

22                   MR. HAMMOUD: Objection, asked and  
23 answered.

24                   THE WITNESS: I have no idea.

1 BY MR. CARTMELL:

2 Q. Okay. It should be noted, though,  
3 I think, that when you arrived at Teva in 2014,  
4 at that point I take it you know that they were  
5 selling lots of different Class II opioid  
6 products. Is that fair?

7 MR. HAMMOUD: Object to the form,  
8 lacks foundation.

9 THE WITNESS: And -- sorry, but I  
10 don't like the term "lots." I like  
11 using numbers.

12 BY MR. CARTMELL:

13 Q. Well, I counted, from the documents  
14 I received, that today, Teva is selling, I  
15 believe, 18 or 19 Class II opioid narcotic  
16 drugs. Is that consistent with your  
17 understanding?

18 A. That could be consistent, yes.

19 Q. And I said "lots." But when you  
20 arrived in 2014, is it fair to say that Teva  
21 was selling a number of different opioid --  
22 Class II opioid narcotic drugs? Fair to say?

23 MR. HAMMOUD: Object to the form.

24 THE WITNESS: I would say that's

1 fair to say.

2 BY MR. CARTMELL:

3 Q. And fair to say that Teva sells and  
4 distributes millions of prescriptions for  
5 opioid narcotic drugs? Fair?

6 MR. HAMMOUD: Object to the form.

7 THE WITNESS: We don't dispense  
8 prescriptions.

9 BY MR. CARTMELL:

10 Q. Bad question. Thank you for  
11 correcting that.

12 Is it fair to say that Teva sells  
13 and distributes millions and millions of opioid  
14 narcotic drug pills per year?

15 MR. HAMMOUD: Object to the form.

16 THE WITNESS: I haven't looked at  
17 the specific number of dosage units, but  
18 I'm sure it's in the millions. But  
19 beyond that, I couldn't say millions and  
20 millions. And to say -- we've sold a  
21 good number of them.

22 BY MR. CARTMELL:

23 Q. And I think I've seen data that  
24 suggests that today, or since 2016, Teva has

1     been, as far as the sales of opioid drugs,  
2     about at the 9 to 10 percent of the sales are  
3     of Teva opioid products. Is that consistent  
4     with your understanding?

5                     MR. HAMMOUD: Object to the form,  
6                     lacks foundation.

7                     THE WITNESS: I don't know that  
8                     offhand.

9     BY MR. CARTMELL:

10                    Q. But you agree that Teva is one of  
11                    the larger sellers and distributors of opioid  
12                    narcotic drugs in America, correct?

13                    A. I would say that's a fair  
14                    assessment, yes.

15                    Q. And those are all things that, when  
16                    you came to Teva, some of the things that you  
17                    looked into, I take it, and learned as you  
18                    started in your job as the new suspicious order  
19                    manager; is that right?

20                    A. Right. Well, looking at the -- you  
21                    know, which specific products we were selling,  
22                    which, of course, was a different mix when I  
23                    started from what is currently being sold.

24                    Q. We talked about the law, the

1     Controlled Substances Act, and the DEA  
2     enforcement of a law related to the sales of  
3     opioids in America. And is it true that the  
4     DEA has actually left the responsibility to the  
5     manufacturers and sellers and distributors of  
6     opioids to design, internally, systems to help  
7     prevent opioid diversion?

8                     MR. HAMMOUD: Objection to the  
9                     form.

10                    THE WITNESS: Could you ask that  
11                    again? I got lost in the question.

12     BY MR. CARTMELL:

13                    Q.     Sure. Is it true that the DEA has  
14     left the responsibility or relies on the  
15     manufacturers and distributors and sellers of  
16     opioid narcotic drugs in America to develop the  
17     systems to help divert -- their internal  
18     systems to help divert opioids -- help to  
19     prevent the diversion of opioids?

20                    A.     So are --

21                    MR. HAMMOUD: Same objection.

22                    THE WITNESS: Yeah, are you saying  
23                    that the DEA has sort of left the  
24                    manufacturers on their own to develop

1           their own system to detect potential  
2           diversion?

3       BY MR. CARTMELL:

4           Q.     Let me restate the question to make  
5           it more clear.

6                     As we saw from the Controlled  
7       Substances Act, it requires manufacturers like  
8       Teva to develop internal systems that will  
9       help, for one thing, identify suspicious orders  
10      of opioids, right?

11           A.     Correct.

12           Q.     It also said in the Controlled  
13      Substances Act that manufacturers like Teva who  
14      sell opioids have to design systems internally  
15      to help prevent the diversion of opioids,  
16      correct?

17                     MR. HAMMOUD:   Object to the form.

18                     THE WITNESS:   Of any controlled  
19           substance.

20       BY MR. CARTMELL:

21           Q.     Including opioids, right?

22           A.     Yes.

23           Q.     And is it true that the DEA  
24      actually relies on Teva and the individual

1 manufacturers and sellers and distributors of  
2 opioids to, in fact, develop those systems and  
3 make sure they have effective systems in place  
4 and monitoring programs in place so that they  
5 can help divert the -- or help prevent the  
6 diversion of opioids?

7 MR. HAMMOUD: Same objection.

8 THE WITNESS: And I wouldn't say --  
9 I couldn't say that the DEA relies on  
10 manufacturers and distributors for that.  
11 Because when it comes to suspicious  
12 order monitoring, they really haven't  
13 given any feedback.

14 BY MR. CARTMELL:

15 Q. Okay. But you know from the  
16 Controlled Substances Act that you have to have  
17 systems in place --

18 A. Correct.

19 Q. -- right? And the DEA does not  
20 develop those systems for you, correct?

21 A. The DEA has not developed our  
22 system, no.

23 Q. Okay. And so you are left as a  
24 manufacturer, meaning Teva, of these opioids to



1 develop those systems yourself, correct?

2 A. Correct.

3 Q. And the DEA does rely on each of  
4 the companies like Teva to develop those  
5 systems to help prevent opioid diversion,  
6 correct?

7 MR. HAMMOUD: Object to the form.

8 THE WITNESS: Well, and again, I  
9 can't say that the DEA relies on because  
10 I don't know what the DEA is doing on  
11 their end. So in terms of, you know,  
12 saying that the DEA relies on, you know,  
13 manufacturers or distributors or even  
14 down to pharmacies or practitioners, I  
15 can't say that.

16 BY MR. CARTMELL:

17 Q. Okay. One of the things, though,  
18 that companies like Teva, as we discussed, are  
19 interested in is maximizing the sales of their  
20 prescription drugs like opioids, including  
21 opioids, correct?

22 MR. HAMMOUD: Object to the form,  
23 lacks foundation.

24 THE WITNESS: Maximizing? I think

1           that's a horrible word for it. No  
2           offense, but...

3       BY MR. CARTMELL:

4           Q.     How would you describe it?

5           A.     Companies want to increase  
6     profitability. That's the reason why people  
7     are in business.

8           Q.     Mr. Tomkiewicz, the DEA, as we saw,  
9     has told Teva and companies like Teva who sell  
10    and distribute opioids to set up systems that  
11    will identify suspicious orders of opioids,  
12    correct?

13          A.     Correct.

14          Q.     And they've asked those companies  
15    to take it upon themselves to provide the  
16    resources and actual processes to put in  
17    effective types of monitoring programs to find  
18    suspicious orders, correct?

19                 MR. HAMMOUD: Object to the form.

20                 THE WITNESS: I would say that's a  
21    fair assessment.

22       BY MR. CARTMELL:

23           Q.     And these same companies that the  
24    DEA has asked to set up these systems so that

1     they can find these suspicious orders are  
2     companies like Teva who, as you said, are  
3     interested in maximizing their profits,  
4     correct?

5             A.     I never said that.

6             MR. HAMMOUD:   Objection,  
7             mischaracterizes his testimony.

8             THE WITNESS:   In fact, I  
9             categorically denied the word  
10            "maximize."

11    BY MR. CARTMELL:

12            Q.     How did you describe it?   I'll use  
13            your words.

14            A.     I said that any company wants to  
15            increase profits.   That's why you're in  
16            business.

17            Q.     So these companies that the DEA has  
18            asked to set up these systems to help prevent  
19            the diversion of opioids are the same companies  
20            that want to increase their profits, correct?

21            A.     I think that's a goal of business.

22            Q.     And part of increasing profits, as  
23            we've discussed, is potentially, or can be,  
24            increasing their sales, correct?

1 A. Correct.

2 Q. So they're asking companies that  
3 want to increase their sales and increase their  
4 profits to set up systems that could, if they  
5 find suspicious orders, decrease their sales,  
6 correct?

7 MR. HAMMOUD: Object to the form.

8 THE WITNESS: Well, and that's --  
9 that is correct. I would say that's a  
10 fair assessment.

11 BY MR. CARTMELL:

12 Q. So these same companies that  
13 they're saying that we want you to identify  
14 these orders that are suspicious, and we want  
15 you to make sure that they are stopped so  
16 they're not diverted, are the same companies  
17 that want to increase sales and increase  
18 profits over time, correct?

19 A. Well, it's going to be difficult to  
20 increase sales if you don't have a DEA  
21 registration.

22 Q. I understand that, but my point is  
23 simply that there is an inherent conflict in  
24 that system, correct?

1           A.     Well, that's what I'm saying.  
2     There isn't an inherent conflict.

3           Q.     You don't believe that's a conflict  
4     or sort of, so to speak, the fox guarding the  
5     hen house?

6           A.     No.

7           MR. HAMMOUD:   Object to the form.

8           MR. CARTMELL:   How long have we  
9     been going?

10          MR. HAMMOUD:   About an hour and  
11     three minutes.

12          MR. CARTMELL:   Do you want to take  
13     a quick break?

14          THE WITNESS:   A break sounds good.

15          MR. CARTMELL:   Like ten minutes?

16          VIDEO OPERATOR:   Going off the  
17     record, 2 p.m.

18                 (Recess from 2:03 p.m. until  
19     2:15 p.m.)

20          VIDEO OPERATOR:   Back on record at  
21     2:15 p.m.

22     BY MR. CARTMELL:

23           Q.     Mr. Tomkiewicz, we're back on the  
24     record.   Are you ready to proceed?

1           A.     Yes, I am.

2           Q.     I want to ask you a few more  
3     questions about Exhibit 3. I think it's in  
4     front of you. And this was the PowerPoint  
5     presentation from March of 2014, which was just  
6     a few months after you arrived at the company  
7     to start working, correct?

8           A.     Correct.

9           Q.     And if we look at page 3, as we  
10    discussed, there was a proposed DEA compliance  
11    organization, and as we discussed, there was a  
12    small restructuring or a few people moving  
13    around, according to this proposed  
14    organization; is that correct?

15          A.     Correct.

16          Q.     And did that small restructuring  
17    occur at that time; do you know?

18          A.     I believe it did.

19          Q.     Okay. And if you look at where you  
20    are, Joe Tomkiewicz, it states under you, you  
21    had one individual reporting to you, Matt  
22    Benkert; is that right?

23          A.     That's correct.

24          Q.     And his position was -- it

1 indicates he's an investigator; is that right?

2 A. Correct.

3 Q. So does that mean that he would be  
4 somebody who would actually be involved in  
5 investigating the suspicious orders?

6 A. Potential suspicious orders.

7 Q. Okay.

8 A. Investigating orders to determine  
9 if they're suspicious.

10 Q. I got you. Okay. And we'll talk  
11 about that process more, but I think what  
12 you're talking about is orders would be  
13 sometimes flagged or pulled aside or pended  
14 after going through the computer system or the  
15 algorithm, and then there would be an  
16 investigation of that to see if it was  
17 suspicious or not, correct?

18 A. Correct.

19 Q. Okay. Now, how many actually of  
20 the 16 employees in this organization or this  
21 department were actually involved in the  
22 investigation of suspicious orders or pended  
23 orders?

24 A. Oh, of pended orders? It was

1 primarily -- primarily Matt and myself.

2 Q. Okay. So of the 16 individuals  
3 indicated in the organization as of March of  
4 2014, it sounds like what you were saying is  
5 you and your direct -- well, the person who was  
6 directly under you, Matt, were the two that  
7 would actually take on the job of investigating  
8 whether or not orders from customers for  
9 opioids were suspicious or not. Is that fair?

10 A. That is fair.

11 Q. Okay. And if you go to the next  
12 page of this PowerPoint, it talks about  
13 predictions, and then it states, Controlled  
14 substances - Teva, 13 sites with DEA  
15 registrations.

16 Do you see that?

17 A. Yes.

18 Q. What does that mean?

19 A. 13 locations, each with an  
20 individual DEA registration.

21 Q. Okay. And so you had 13 different  
22 sites that were distributing opioids or  
23 narcotics and were DEA registered; is that  
24 correct?



1 A. No.

2 MR. HAMMOUD: Object to the form.

3 THE WITNESS: No, that's not  
4 correct.

5 BY MR. CARTMELL:

6 Q. Okay. Well, 13 -- strike that.

7 It also states that you have a  
8 total of 44 DEA registrations.

9 Do you see that?

10 A. Yes.

11 Q. Okay. And so you had 16 people  
12 that were in charge of what, with respect to  
13 the DEA registrations? Was it to make sure  
14 they were in compliance?

15 MR. HAMMOUD: Object to the form.

16 THE WITNESS: Well, it depends upon  
17 the person and their specific  
18 responsibilities and their location.

19 BY MR. CARTMELL:

20 Q. Okay. As far as your DEA  
21 compliance group, is it true that those 16  
22 employees were located in lots of different  
23 locations?

24 A. In different locations, yes.

1 Q. Okay. Was Colleen McGinn in the  
2 same location as you?

3 A. No.

4 Q. Okay. And where was she located?

5 A. I believe she's in the Frazer  
6 location.

7 Q. Okay. But there wasn't one  
8 centralized location for all of the DEA control  
9 employees; they were spread out among the  
10 different offices, correct?

11 MR. HAMMOUD: Object to the form.

12 THE WITNESS: Correct.

13 BY MR. CARTMELL:

14 Q. Is that correct?

15 A. That's -- is correct.

16 Q. It says, CS -- that stands for  
17 controlled substances, correct?

18 A. Yes.

19 Q. -- represent X percent of Teva  
20 sales. What does that mean?

21 A. I don't know specific. I can make  
22 a conjecture.

23 Q. Okay.

24 A. That this is a draft.